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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

GARY FELICIANO
PETERKONER,

VS.

SCOTT HARRINGTON, Warden,

HAWAII CORRECTIONAL FACILITY (H.C.F.)

99-902 Moanalua Rd,

Aiea, HAWAII 96701

H.C.F. Program Administrator Gary

Kaplan, Module 3, B-Block Case

Manager Paul Niesen, Unit Manager

Janis Lepule, Module 4, Case Man-

ager Megan Owens, H.C.F. Administrator

To Dovie Borges.

STATE OF HAWAII

Respondents,

Civil No. CV18 00299 DKW/KJM

PETERKONER Gary Feliciano, deprival
of, and discriminated upon by Hala-

wa Correctional Facility's Programs

Administrator, Facility's Administra-

tor, Case Managers and Unit Manager

To Accommodate an Inmate with

Disabilities. Moving him from #13 back

to #16 violate "Equal Protection" of

THE LAW. Discriminate For Unequal

Treatment. Declaration in Support

by Peterkoner Gary Feliciano Pro Se

CERTIFICATE OF SERVICE

NOTICE OF MOTION

Civil No.

Petitioner Gary Feliciano, deprived of, and discriminated upon by
Hawaii Correctional Facility's Program Administrator, Facility's Admini-
strator, Case Managers and Unit Managers to Accommodate an Inmate
with Disabilities, Moved him from #13 back to #16 Violate "Equal Pro-
tection" of the Law. Discriminate For Unequal Treatment. Declara-
tion in Support by Petitioner Gary Feliciano

Prose

Certificate of Service

Notice of Motion

Declaration in Support

Comes Now Petitioner Gary Feliciano is an Inmate of the State
of Hawaii housed at the Hawaii Correctional Facility, 99-902 Monna-
lua Rd, Area, Hawaii, Module 3, B-Block Cell #9, Quad 1.

1. This Complaint stems by Request Petitioner Feliciano submitted
to be placed in 2.5 Drug Treatment Program that the Hawaii Probation
Authority's Board recommended before Prison.

2. Many Months of being whipped smacked by disapproved Inmate
Requests, The last is "Shut your Mouth and Wait."

3. Well, Petitioner Feliciano is not a person to shut his Mouth when he

Witness program Failure in From Prison, jump in front of him and is back out on Prison Again.

4. Before Continuing; Jurisdiction

The Court has Jurisdiction over The Petitioner's Claim of Violation of Federal Constitutional Rights Under 42 U.S.C. § 1983, 42 U.S.C. §§ 1331 (a) and 1343.

5. The Court has Supplemental Jurisdiction over THE PLAINTIFFS STATE Tort Claims Under 28 U.S.C. § 1367.

6. Program Administrator (Gary Kopin) have the power to Accommodate Petitioner Gary Feliciano To be in 2.5 drug program by having him go directly to his Class From Module 3; B-Block, Quad 1; Cell #9 To his Rightful 2.5 drug program in a Direct Approval From Case Manager (Megan Owens) who is in Charge of 2.5 drug program at H.C.F. If Bel Spree is Unavailable For Petitioner Gary Feliciano who have Multiple Disabilities

7. Petitioner Gary Feliciano have a Medical Aid, Who, can get a Wheel Chair for him when need be.

8. THE NINTH Circuit has held THAT THE Americans with Disabilities Act (ADA) requires THAT Prison policies and Practices Accommodate Inmates

with disabilities to ensure due process.

9. *Plyley v. Moore*, 129 F.3d 728, 735 (4th Cir. 1997) (Ex Post Facto Violation by retroactive application of Amended Furlough statute that was functional equivalent of deprivation of Mandatory Parole)

10. See *Starek*, 466 U.S. at 692 (Right to effective Assistance of Counsel Impaired when defense Counsel Operates under Conflict of Interest because "Counsel breaches the duty of loyalty, perhaps the most basic of Counsel's duties").

11. Respondents should help my Inmate to go forward including the disabled Inmates

12. 42 U.S.C. § 1981(2)(b)(1) (Punitive Damages Award proper in § 1983 Case if Respondent engaged in discriminatory practice with "Malice" or Reckless indifference to Federally protected Rights," which may be a higher standard than that of *Smith v. Wade*),

13. *Reynolds v. Gwinnett*, 506 F.3d 183, 191 (2d Cir. 2007) (State officials can be Sued in Official Capacity for Injunctive Relief Only when State is Moving Force behind Deprivation)

14. Colorable Claim

Petitioner Gary Feliciano Clearly Showed by Findings of Facts that he being discriminated upon and deprived of 2.5 drug programs recommended by STATE OFFICIALS at the HAWAII CONFINEMENT FACILITY Acted Under Color of STATE LAW in Procedural Due Process of 2.5 drug programs depriving Gary Feliciano Petitioner in this Case for Prison. Above Named Respondents is the Moving Force behind Deprivation and are being Sued in Their Official Capacities in Punitive Damages in the Sum of \$350,000.00

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Analysis

ARTICLE IV SECTION 2 OF THE UNITED STATES CONSTITUTION, Close Quote

"All Citizens of THE SEVERAL STATES are entitle to All Immunities,
A privileges OF THE SEVERAL STATES."

Conclusion

Wherefore This Court Should grant This Petition For the Foregoing Reasons.

Dated: Aiea, HAWAII August , 1 2018.

Pursuant TO 28 U.S.C. 51746 Respectfully Submitted by Gary J. Feliciano
Petitioner Pro Se